

Application No. 09/846,410

Application No. 09/846,410

05/30/2006

Filing date 02/13/2001  
Name Urbain A. von der Embse  
Unit 2634  
Examiner Jason M. Perilla

### **RCE Request for Continued Examination**

This is an RCE request to respond to your Office Action mailed 04/19/2006. I agree with all of your objections and following your phone help and written Office Action I have rewritten Claims 5-9 in a format which I believe removes the indefinite and functional or operational language and provides step-by-step explanations of how to generate the operative devices of this patent.

### **ENCLOSURES**

- PTO/SB/21 Transmittal form
- PTO/SB/30 Request for Continued Examination
- PTO-2038 Credit Card Payment Form
- A copy of the Office Action mailed to me on 01/11/2006
- Currently amended claims 5-9
- Clean version of how the claims will read

### **REMARKS**

#### **1. DETAILED ACTION**

In this RCE I have rewritten Claims 5-9 to address the issues in your latest Office Action mailed 04/19/2006.

#### **2. Response to Arguments**

I agree with the examiner's remarks and I have rewritten Claims 5-9 accordingly.

**3. Claim Objections**

The steps defining the methods in claims **5,6** are given in sufficient detail for one versed in the communications arts to be able to implement these steps to generate the CDMA codes being claimed. It is obvious that these codes are intended to be implemented for CDMA applications by replacing current real codes with these complex codes and implementing the corresponding complex encoding and decoding in the transmitters and receivers as explained in the specification.

Regarding claim **7** the references to claims **1,2** have been replaced by references to claims **5,6**. The method in Claim **7** is supported by the steps to enable one versed in the communications arts to generate the mapping of the multiple data rate symbols onto the code vectors.

Claims **8,9** are rewritten to claim fast encoding and decoding algorithms for hybrid Walsh codes with representative algorithms given for the hybrid Walsh codes. The steps for implementing these algorithms are defined in their order of execution and in sufficient detail to enable one versed in fast discrete Fourier transform algorithms to implement these algorithms. These steps summarize the detailed implementations of these fast algorithms in the specification.

**4. Claim Rejections - 35 USC § 112**

I believe that the rewritten claims **5-9** point out and distinctly claim the subject matter which is regarded as the invention.

**5. Claim Rejections - 35 USC § 112**

I believe that the rewritten Claims **5-9** have removed the narrative structure along with the previous indefinite and and

functional or operative language. Claims **5,6** clearly define the steps required to generate the hybrid Walsh and generalized hybrid Walsh CDMA codes in sufficient detail that enables one versed in CDMA communications to implement these codes in CDMA transmitters and receivers.

I believe that the rewritten Claim **7** clearly defines the method for supporting multiple-rate user CDMA communications using hybrid Walsh and generalized hybrid Walsh fixed block length codes.

I believe the rewritten Claims **8,9** clearly define the steps demonstrated in the specification for implementing fast versions of the hybrid Walsh encoding for transmitters and fast hybrid Walsh decoding for receivers. Although not claimed it seems obvious that these fast techniques are directly applicable to the generalized hybrid Walsh codes.

**6. Claim Rejections - 35 USC § 112**

I believe that the rewritten claims **5-9** now include the essential structural cooperative relationships of elements and meet the 35 USC 112 standards

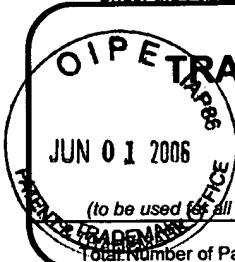
Thanks ever for your help.

Sincerely,

*Urbain A. von der Embse*

Name	Urbain A. von der Embse
Contact No.	310.641.0488
Address	Urbain A. von der Embse 7323 W. 85 <sup>th</sup> St. Westchester, CA 90045-2444

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

 <b>TRANSMITTAL FORM</b> <b>JUN 01 2006</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number <b>09/846,410</b> Filing Date <b>02/13/2001</b> First Named Inventor <b>Urbain A. von der Embse</b> Art Unit <b>2634</b> Examiner Name <b>Jason M. Perilla</b> Attorney Docket Number
Total Number of Pages in This Submission		

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<b>Remarks</b> <i>RCE request and amended claims</i>		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name			
Signature	<i>Urbain A. von der Embse</i>		
Printed name	<i>Urbain A. von der Embse</i>		
Date	05/30/2006	Reg. No.	

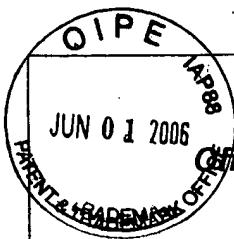
**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	<i>Urbain A. von der Embse</i>		
Typed or printed name	<i>Urbain A. von der Embse</i>	Date	05/30/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



## Office Action Summary

JUN 01 2006	Application No.	Applicant(s)
	09/846,410	VON DER EMBSE, URBAIN ALFRED
Examiner	Art Unit	
Jason M. Perilla	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 03 February 2006.  
2a) This action is FINAL.      2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 5-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 5-9 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 13 February 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. Claims 5-9 are pending in the instant application.

### *Response to Arguments*

2. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

### *Claim Objections*

3. Claims 5-9 are objected to because of the following informalities:

Regarding claim 5, the claim is objected to because a method is claimed, however, no steps for the method are provided. Rather, the method comprises means.

Regarding claim 6, the claims are objected to for the same reasons as applied to claim 5 above.

Regarding claim 7, the claim is objected to because it depends upon claims "1, 2", however, neither claim 1 or 2 is present in the application. Furthermore, dependency of a claim may only be made in the alternative. In this case, one is unable to determine if the dependency is upon claim 1 or 2, or upon claims 1 and 2. Additionally, the claim is rejected for the same reasons as applied to claim 5 above.

Regarding claim 8, the claim is objected to because one is unable to determine if the claim depends upon claims 5, 6, and 7 in the alternative or collectively. Further, the claim is objected to for the same reasons as applied to claim 5 above.

Regarding claim 9, the claim is objected to for the same reasons as applied to claim 8 above.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 5-9 are rejected as failing to define the invention in the manner required by 35 U.S.C. § 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The **structure** which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as *to present a complete operative device*. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

6. Claims 5-9 are rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the structural interconnections between the various claimed means.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Perilla whose telephone number is (571) 272-3055. The examiner can normally be reached on M-F 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh M. Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason M. Perilla  
April 6, 2006

jmp



CHIEH M. FAN  
SUPERVISORY PATENT EXAMINER



UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	RECEIVED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,410	02/13/2001	Urbain Alfred von der Embse		1502

7590 04/18/2006

Urbain Alfred von der Embse  
7323 W. 85TH ST.  
WESTCHESTER, CA 90045-2444

EXAMINER

PERILLA, JASON M

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.